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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

RICKY DON PIRTLE,

Defendant and Appellant.

D063488

(Super. Ct. Nos. SCD243096,
SCN312679)

APPEAL from a judgment of the Superior Court of San Diego County,
Dwayne K. Moring, Judge. Judgment affirmed as modified.

John L. Staley, under appointment by the Court of Appeal, for Defendant
and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant
Attorney General, Julie L. Garland, Assistant Attorney General, Charles C.
Ragland and Jennifer B. Truong, Deputy Attorneys General, for Plaintiff and
Respondent.

Ricky Don Pirtle appeals after he pleaded guilty to one count of possessing a controlled substance for sale in two separate cases (SCD243096, SCN312679). He received a total term of five years in local custody. He contends, the Attorney General concedes, and we agree that the trial court erroneously calculated his total presentence custody credits by calculating the actual custody credits and conduct credits for his two cases separately, rather than adding the actual custody credits for his two cases together and then calculating his conduct credits based on the aggregate number of actual custody credits.

DISCUSSION

Pirtle served 57 and 23 actual days in custody, respectively, in case numbers SCD243096 and SCN312679. The trial court was required to aggregate the actual days in custody, resulting in an award of 80 days of actual custody credits. (*People v. Culp* (2002) 100 Cal.App.4th 1278, 1283–1284.) Applying the two days of presentence conduct credits for every two-day period of confinement calculation under amended Penal Code section 4019, subdivision (f), Pirtle should be awarded 80 days of conduct credits, for a total of 160 days of presentence custody credits. Accordingly, the judgment must be modified to reflect a total of 160 days of presentence custody credits.

DISPOSITION

The judgment is modified to reflect a total of 160 days of presentence custody credit. The clerk of the superior court is directed to prepare an amended

abstract of judgment and forward a copy to the appropriate authorities. As so modified, the judgment is affirmed.

McINTYRE, J.

WE CONCUR:

HUFFMAN, Acting P. J.

McDONALD, J.